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FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of the Commission's
Rules to Establish New Personal
Communications Services

) GEN Docket No. 90-314
) ET Docket No. 92-100
)
) RM-7140, RM-7175, RM-7617,
) RM-7618, RM-7760, RM-7782,
) RM-7860, RM-7977, RM-7978,
) RM-7979, RM-7980
)
) PP-35 through PP-40, PP-79
) through PP-85

Comments of Cellular Service, Inc.

Cellular Service, Inc. ("CSI"), by its attorney, hereby submits its Opening Comments in this Notice of Proposed Rule Making ("NPRM"). As more fully discussed herein, CSI believes that the Commission's rules and licensing procedures adopted for broadband PCS service should be devised to permit small and medium sized companies' participation in its provision.

Statement of Interest

CSI is a certificated cellular reseller operating in California primarily in the Los Angeles/Oxnard/Ventura and San Diego Metropolitan Statistical Areas ("MSAs"). CSI is the initiator of the proposal to permit interconnection of competing non-facilities based retail provider's switches to the cellular carriers' MTSO's, which has been approved in principle by the California Public Utilities Commission ("CPUC") on October 6, 1992

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in its Decision 92-10- 026. ^{1/} This Decision also results in the cost-based unbundling of cellular facilities-based carrier network building blocks to resellers in a manner analogous to this Commission's Open Network Architecture Policy.

CSI also sought a pioneer's preference in this proceeding for a digital PCS system using narrowband technology based upon the DCS-1800 standard. CSI believes that the mobile communications marketplace must be vigorously competitive in order to assure the diversity of innovative and quality products and services that will establish the U.S. as a leader in global mobile communications services. To that end, the proposal for which CSI sought a preference would accommodate multiple providers of services at numerous levels in the PCS network architecture. CSI's design, using sophisticated switching, would facilitate additional facilities based competition in both mobile and enhanced services, as well as permit a plethora of value-added carriers to offer a diversity of services to the consumer.

Through its participation in the evolution of PCS and cellular, CSI believes it has made a significant contribution to those services' future availability to consumers at reasonable rates. Nonetheless, CSI is concerned that the Commission will establish licensing criteria (e.g., all nationwide licenses for broadband PCS) that will always assure that CSI and other small and medium size companies only participate in the market in a

^{1/} The CPUC's Decision has been automatically stayed for 60 days due to the filing of Applications for Rehearing by certain facilities-based cellular carriers on October 26, 1992.

secondary role (as a non-radio licensee). As more fully explained below, this result will deprive the Commission, and ultimately, consumers of the diversity of services which will be made available only through broad, inclusive participation of the whole mobile communications industry, not just large, now entrenched players. 2/

1. MSA And Localized Service Areas Will Allow PCS Participation By Medium Sized Innovative Companies

CSI's fundamental interest in this proceeding, as a medium size innovative reseller in southern California, is that the final Commission rules adopted provide it and other similarly situated medium size companies an equal opportunity to compete for PCS licenses on an MSA or smaller basis. In that regard, CSI endorses the Commission's determination at paragraph 59 of this NPRM that:

smaller service areas may permit a broader participation by firms of all sizes in the PCS market. Some potential PCS licensees may be interested in serving only their local areas, including smaller communities that are less economic to serve. This approach may minimize certain transaction costs associated with having larger areas, such as subcontracting with other companies to provide service in these smaller cities and communities. Broader participation also may produce a greater diversity and degree of technical and service innovation than would be expected from a few large firms. Diversity may be an important benefit during the initial implementation of PCS when the market is still being defined.

2/ CSI reminds the Commission that it was in part small entities, like McCaw in its infancy, that brought cellular to the American public.

This is precisely CSI's interest in this proceeding, to apply for and provide service to communities as large as Los Angeles and as small as its adjacent cities such as Pasadena, Glendale (where CSI is based) and Santa Monica. Thus, in approaching the Commission's allocation scheme, CSI believes that the Commission should not adopt measures that preclude medium size companies such as itself, from access to financing systems that would be MSA size, or more localized (and hence smaller) in nature. Thus, CSI suggests that this be an additional fifth option to be considered and adopted by the Commission as set forth in para. 60 of the NPRM.

Broadband PCS service do not need to be nationwide in order to accommodate needs of end users. CSI contemplates that many PCS uses will duplicate or enhance services currently provided by local exchange carriers, and thus will be primarily local in nature. Providers offering these types of services should be encouraged to build out the local infrastructure necessary to accommodate a large local subscriber base, thus providing the wireless local exchange competition the Commission seeks. Granting local licenses will encourage the building out of the local infrastructure.

It should be noted that most PCS experimental licenses have been allocated on an MSA basis in conformance with both this Commission's and the industry's belief that PCS is a localized service for personal mobility. Therefore, the Commission's proposal to award large size areas not only conflicts with this standard but it will have an adverse impact on technological development.

2. Lottery Or Competitive Bid Allocation Schemes Should Not Be Devised To Deter Medium Size Company Participation

As an initial matter, CSI suggests that a lottery post card scheme, if adopted for broadband PCS, not be predicated on high filing fees and that it allow, as the Commission has proposed, a 30 day period after award for the winning applicant to submit its plan. NPRM at para. 35. Similarly, if the Commission adopts a competitive bid scenario, CSI suggests that bids not require down payments, as such, but a fixed royalty over a fixed period of time, allowing for the applicant to submit a plan for final approval within a 30 day period after award of the licenses or construction permits.

3. At Least Three Competitors Should Be Authorized Per Service Area, Each Provided With Adequate Spectrum

A policy decision should be made at the outset that as many competitors as can be accommodated by spectrum availability should be allowed. CSI suggests that the Commission allocate either 25 MHz of clear spectrum per permittee or 30 MHz of shared spectrum per permittee in the 1850-1895/1930-1975 MHz. See NPRM at para. 37. These alternative allocation schemes would provide for at least three competitive systems on an MSA, smaller locality or even broader geographic basis. And, importantly, the Commission should exert its authority to specify common air interfaces so that all systems are compatible.

4. LECs And Existing Cellular Licensees And Their
Affiliates Should Be Precluded From Same Locale
Licensing

CSI believes that existing cellular licensees and their affiliates should be precluded from receiving licenses in the MSAs where they are already licensed. If the Commission is interested in promoting bonafide competition in wireless PCS, it should limit existing cellular licenses to MSAs where they are not licensees so that new bottleneck carriers are not created in the very areas where competition is to be introduced. ^{3/} Cellular carriers entrenched in existing MSAs have insurmountable economic incentives to stifle direct PCS competition with them. Precluding, ab initio, these cellular carriers from operating PCS in their existing licensed MSAs will encourage PCS as a competitive alternative and promote reasonable, fair interconnection arrangements to the cellular network. For these same reasons, LECs should be precluded from PCS overlap in the same market.

5. Negotiations

As indicated in para. 46 of the NPRM, the Commission proposed that new PCS service providers be empowered to negotiate with existing 2 GHz frequency users for access to that spectrum, if the Commission moves forward with ET Docket No. 92-9. CSI supports

^{3/} Indeed, the General Accounting Office study that the present duopoly cellular market is not competitive leads to the conclusion that allowing these same cellular licensees further spectrum will not enhance rate competition or delivery of PCS service to consumers. See NPRM at para. 65.

this proposal with the proviso that the negotiations be limited to the actual documented cost of moving the existing service. For example, the reimbursable costs for a carrier that has a microwave radio system with the capacity of 250 voice channels, but only equipped with 100 channels, that is replaced by a new system with a capacity of 1344 channels and equipped with 200 channels should be limited to the direct replacement cost. In addition a fixed transition period should be set so that the carrier to be moved cannot obfuscate the move. 4/

6. Common Carrier Status

CSI submits that PCS must be accorded common carrier status because its effectiveness as a mobile communications tool will require that it be interconnected with other telephone service, both LEC and cellular, and the economics of PCS will require the sale of such service at a profit. See NPRM at para. 37. Likewise, unlike private land mobile service, PCS should be not limited to commercial users but made available as an adjunct of local exchange and cellular networks. If CSI's proposal for localized service by MSA and smaller city and community licensing is adopted, PCS could be served both technically and from a regulatory standpoint from interstate components, leaving it subject only to state regulatory treatment, or forbearance therefrom, by applicable regulatory commissions for intrastate subscribers.

4/ In lieu of an actual move, a reversion to secondary status at

7. GHz Power and Antenna Heights Limits

The Commission (at paragraphs 114-116) asks for comment on the appropriate height and power limitations for broadband PCS. The following chart contains large cell (comparatively high power) geographic area plans versus smaller cell (low power) smaller geographic plans and describes the technological impact of the Commission's adoption of either.

Small Cell Design	Large Cell Design
*Small coverage area per cell,	*Large Coverage areas
*High infrastructure equipment implementation cost if required to match large cell's area	*Lower equipment implementation cost
*Easier to find antenna sites, fewer zoning problems	*Tower sites difficult to obtain, zoning problems
*Easier to coordinate frequencies used, sharing with OFS users possible	*Sharing with OFS users in congested areas, i.e., Los Angeles, not possible
*Subscriber equipment smaller, lower cost	*Subscriber equipment larger, higher cost
*Overall higher subscriber capacity for the same area	*Lower subscriber capacity for the same area

As can be seen from the chart, CSI believes that broadband PCS can best develop using small cells utilizing relatively low power. Admittedly, there are trade-offs, the most obvious of which is that largest cells cover a broader geographic area. But

a fixed transition period could be implemented.

they may not ultimately promote either the consumer's, the carriers' or the Commission's interest. CSI believes, for example, that many carriers' experience in cellular demonstrated that subscriber growth is more easily accommodated through the growth and addition of cells rather than cell splitting. In fact, it was because of difficulties that cellular carriers faced in expansion which required them to seek additional capacity rather than accommodate the additional subscribers through the graceful expansion which would have been possible if they had employed smaller cells from the outset. Thus, ultimately, smaller cells is more spectrally efficient. And spectral efficiency must be of paramount concern to the Commission in granting spectrum for these and all services. As the chart indicates, the only aspect of larger cell technology that might benefit permittees is lower equipment costs. However, this benefit is offset by overall higher subscriber capacity, lower subscriber equipment costs and easier access to and compliance with local zoning requirements.

Conclusion

MSA or smaller PCS allocations that allow for innovative entrepreneurial participation by medium sized telecommunications companies will enhance the development of broadband PCS and speed its delivery to consumers. CSI requests that this policy theme be

incorporated in the Commission's final decision and that its recommendations herein be adopted.

Respectfully submitted,

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